IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.400 OF 2007

Sumit s/o. Dineshchandra Gupta ...Applicant.

Versus

State of Maharashtra
and Anr. ...Respondents.

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ALONG WITH

CRIMINAL APPLICATION NO.401 OF 2007

Dineshchandra s/o Rambux Gupta ...Applicant.

Versus

State of Maharashtra
and Anr. ...Respondents.

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Mr.A.M.Ghogare, Adv. i/b. P.P.Jadhav, Advocate for the Applicants.
Mr.A.S.Shitole and Mrs.M.M.Deshmukh, APP, for State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 26th February, 2007.

P.C.:

1. Heard the learned Advocate for the Applicants and the learned APP for the State.

2. Mr.Dineshchandra Gupta, applicant in Cri.Application No.401 of 2007, is the father of Mr.Sumit Gupta, who is applicant in Cri.Application No.400 of 2007.

3. A complaint has been filed against both these applicants by Mr.Dipen J. Shah, partner of M/s.Simba Chemist. It is the case of the complainant that applicant-Dineshchandra Gupta was introduced to him by one Mr.Vinod Holamoge as being a very influential and reputed businessman. Applicant-Dineshchandra Gupta stated that he was dealing in products of Pfizer company as well as other big companies. Mr.Vinod Holamoge assured the complainant about the genuineness of the applicant and stated to the complainant that they could do business with the applicant without any fear and he also assured the complainant about the payment and took guarantee. On account of this, the complainant started accepting purchase orders of the applicants and started selling materials to the applicants. The *modus operandi* was that, either applicant-Dineshchandra Gupta or his son

Mr.Sumit Gupta used to place orders with the complainant from Nagpur over the telephone. After receiving the orders the complainant would, in turn, place the orders with different pharmaceutical companies. After receiving the material, the said material would be sent to the firm of the applicants. Initially the payments were made for the goods received. However, thereafter the payments were not made. Mr.Dineshchandra Gupta avoided to pay money. Thereafter, he also stopped receiving calls of the complainant and started avoiding them. It is the case of the complainant that right from the beginning a conspiracy was hatched and executed wherein the complainant was conned into believing the applicants and induced by giving big plans for big business and by giving some money to the complainant at intervals in order to keep faith and trust alive in the applicants and thereby dishonestly and fraudulently cheated the complainant to the extent of Rs.84,80,160/-.

4. The learned APP, on instructions, states that the investigation in the present case is

going on and the charge-sheet has yet to be filed. He has further submitted that applicant-Sumit Gupta is absconding and is not traceable.

5. In this view of the matter, looking to the complaint filed by the complainant and the fact that the investigation in the matter is going on, I am not inclined to quash the FIR at this stage.

6. Criminal Applications are rejected.

(SMT.V.K.TAHILRAMANI,J.)